IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.840 OF 1998
IN
SUMMARY SUIT NO.2529 OF 1998

US Borax Inc. ..Plaintiffs

Vs.

Diamonds Tiles Ltd. ..Defendants

Mr.Kaizad Irani a/w Mr.Sameer Sawant i/b M/s.Little and Co. for the plaintiffs

None for the defendants

CORAM : S.U.KAMDAR, J
DATED : 17TH OCTOBER, 2005

P.C.:

1. The present suit is filed for the recovery of principal amount of US $ 34,496 equivalent to Rs.15,48,870/- and for the interest amount US $ 5,928.19 equivalent to interest of Rs.2,66,175/- The total claim in the present suit is thus of US$ 40,424.19 equivalent to Rs.18,15,045/-

2. The present suit is filed for the recovery of goods sold and delivered under invoice 28.12.95 being Ex.C to the pliant. Suit is served on the defendants and Summons for Judgment was taken out.

Summons for Judgment is also served. Defendants had filed the appearance through the Advocate Mr.Vinod A Desai. I am informed that the said Advocate, Mr.Vinod A Desai has expired. Accordingly, by my order dt.19.9.05 defendants were given notice to appear. Notice is served at the address. However, the same has come back saying that the premises are locked. Office report is on record. Company is originally wound up.However, BIFR has recorded the winding up of the company. In that view of the matter, provision of s.22 are no more applicable. By order dt.13.9.05, I had also directed notice to the Advocate for defendants which has also come back saying that he is expired. Thus, inspite of various notices, defendants are not appearing in the matter. In that view of the matter, Summons for Judgment is made absolute.

3. The learned counsel for the plaintiffs undertakes to file affidavit of service in respect of summons for judgment within one week from today. Suit is decreed as prayed. There shall be decree in favour of plaintiff and against defendant for sum of Rs.18,15,045/- with further interest @ 12%

p.a.Suit as well as summons for judgment are disposed of accordingly. No order as to costs.